

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q65570

Bruno TISSERAND, et al.

Appln. No.: 09/913,885

Group Art Unit: 2151

Confirmation No.: 5990

Examiner: Backhean TIV

Filed: August 17, 2001

For: METHOD OF TRANSMITTING MINI-MESSAGES, AND A DEVICE ASSOCIATED  
WITH THE METHOD

**SUBMISSION OF APPEAL BRIEF**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith please find an Appeal Brief. A check for the statutory fee of \$500.00 is attached. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,

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WASHINGTON OFFICE

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Date: March 22, 2006



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**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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**I. REAL PARTY IN INTEREST**

The real party in interest is ALCATEL by virtue of an assignment executed by Bruno TISSERAND and Luc DAVIT (Appellant, hereafter), on July 4, 2001 and July 6, 2001, respectively, and recorded by the Assignment Branch of the U.S. Patent and Trademark Office on August 17, 2001 at Reel 012261, Frame 0891.

**II. RELATED APPEALS AND INTERFERENCES**

To the best knowledge and belief of Appellant, the Assignee and the undersigned attorney, there are no other appeals or interferences before the Board of Appeals and Interferences ("the Board") that will directly affect or be affected by the Board's decision in the present Appeal.

### **III. STATUS OF CLAIMS**

Claims 1-16 are now pending in this application.

The Examiner rejected claims 1-2, 4-5, 7-8, 10-11, 13-14, and 16 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,728,548 to Willhoff (Willhoff, hereafter).

The Examiner rejected claims 3, 6, 9, 12, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Willhoff.

The Examiner rejected claims 1, 2, 8, and 10-11 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,351,235 to Lahtinen (Lahtinen, hereafter) in view of U.S. Patent No. 6,144,671 to Perinpanathan et al. (Perinpanathan, hereafter).

The Examiner rejected claims 4-7, 9, and 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Lahtinen in view of Perinpanathan in further view of Willhoff.

The Examiner rejected claims 3 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Lahtinen in view of Perinpanathan in view of Willhoff.

No other grounds of rejection or objection are pending. This appeal is directed to rejected claims 1-16.

**IV. STATUS OF AMENDMENTS**

A Response under 37 C.F.R. § 1.116 was filed on November 2, 2005 in response to the final Office Action mailed August 2, 2005. The November 2 Response was entered by the Examiner. No other amendment or response was filed subsequent to the final rejection.

The Appendix included with this Brief sets forth the claims involved in the appeal.

**V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

In general, the present invention relates to a method of sending a user message through a transmission network using mini-messages, and to a transceiver device associated with the method.<sup>1</sup>

In the prior art, it is known that a message may be transmitted from a caller to a called party through a transmission network wherein the messages have a data structure having from a few bytes or tens of bytes to a several thousands of bytes. These messages are mini-messages. Conventionally, to transmit such a mini-message, it is necessary to set up a call between a caller and a called party in order to assign and establish a link, or communications channel, between the parties.<sup>2</sup> The mini-message is then sent over this established channel, and the call is then “cleared down” once the interchange between caller and called party is finished.<sup>3</sup> In other words, the caller device and the called party device have a “discussion” whereby the devices determine a communications channel to use, switch to this channel, send the mini-message over the channel, and terminate the channel.

The conventional method of transmitting a mini-message generates certain problems. First, given the small scale of the mini-messages, the time required 1) for setting up the call channel, 2) for the call time itself, and 3) for clearing down the call, creates a long transmission time given the relatively small scale of the mini-message.<sup>4</sup> This lengthy transmission time is

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<sup>1</sup> Specification at page 1, lines 3-7

<sup>2</sup> Specification at page 1, lines 23-28

<sup>3</sup> Id.

<sup>4</sup> Specification at page 1, lines 29-33.

burdensome for a caller. Second, in a non-limiting embodiment of the invention, the mini-messages are smart card codes, which are used in transactions. These transactions can number in the tens of thousands of transactions per day over the network. In such a case, the long transmission time for each transaction places a considerable additional load on the network.<sup>5</sup> Lastly, placing calls through a network is not free of charge, and therefore, sending mini-messages by this conventional method also increases the cost to the user.<sup>6</sup>

Appellant's invention is directed at the above problems with the conventional method of sending mini-messages across a network. Accordingly, concepts of the present invention aim at decreasing the cost of transmission of mini-messages, the network load, and the transmission time for sending mini-messages over the network.<sup>7</sup> In attaining the above and other aspects, according to independent claim 1, there is provided a method of sending a user message through a transmission network, the method comprising:

activating a request to set up a call channel;

placing a user message in a spare field of a signaling message for setting up the call channel;

performing a signaling stage comprising sending the signaling message; and

terminating the setting up of the call channel once the user message has been communicated.

According to a non-limiting embodiment within the scope of the claim, the user message to be transmitted is a PIN number which is read from a smart card 12 inserted in a smart card

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<sup>5</sup> Specification at page 1, line 34 to page 2, line 2

<sup>6</sup> Specification at page 2, lines 7-10

<sup>7</sup> Specification, page 2, lines 11-13



reader 11, which is preferably located in a telephone 1.<sup>8</sup> Telephone 1 is provided with an antenna 5, a transceiver 6, and a microprocessor 7 which controls the transceiver 6.<sup>9</sup> The microprocessor activates a request to set up a call channel between the telephone 1 and a device 13.<sup>10</sup> The microprocessor 7 places the user message, i.e. the caller's PIN number, into a spare field of a signaling message, prior to transmission of the signaling message.<sup>11</sup> The signaling message is a special message, i.e. a control message, and is transmitted from the telephone 1 to the device 13.<sup>12</sup> The microprocessor 7 then causes the call set-up to terminate once the message 4 has been received by the called party, i.e. device 13.<sup>13</sup> Importantly, for purposes of the present invention, a call is deemed to be fully set-up when the called party accepts the call, i.e. when the called party answers.<sup>14</sup> Thus, in the invention, the called party *does not answer*, but nevertheless receives the user message via the signaling message.<sup>15</sup> This is because the call set-up is terminated *at the signaling stage* before a channel is assigned or otherwise established.

Independent claim 10 recites the same limitations as are present in independent claim 1, except for the final limitation, which requires "terminating the setting up of the call channel once a reply to the user message has been received." Referring to the non-limiting embodiment

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<sup>8</sup> Figure 1

<sup>9</sup> Figure 1; Specification at page 3, lines 22-34

<sup>10</sup> Figure 1; Specification at page 5, lines 1-3

<sup>11</sup> Figure 1; Specification at page 5, lines 5-7

<sup>12</sup> Figure 1; Specification at page 5, lines 7-13

<sup>13</sup> Figure 1; Specification at page 5, lines 26-33

<sup>14</sup> Specification at page 5, line 37 to page 6, line 2

<sup>15</sup> Specification at page 6, lines 2-4

discussed above, the microprocessor 7 causes the call set-up to terminate once the message 4 has been received by the called party and once a reply to the message 4 has been received by the caller.<sup>16</sup> This would be the case, e.g. where the telephone 1 waited for a reply verifying that the PIN number was authorized for a future transaction.<sup>17</sup>

Independent claim 8 recites a transceiver device for use in transmitting a user message to a called party and for receiving a reply to the user message from the called party, the device comprising:<sup>18</sup>

a dedicated memory; (Fig. 1, #22)

one or more of the user message and the reply to the user message stored in the dedicated memory; and

a processor adapted to form a signaling message so as to include the user message in a spare field; (Fig. 1, #7);

wherein the processor is adapted also to send the signaling message during a call set-up operation of a signaling stage.

In another non-limiting embodiment of the invention, the called party may be another mobile telephone 18 in which case the telephones 1 and 18 may be used as a modem. A program 8 running in microprocessor 7 issues a command to transmit the user message.<sup>19</sup> The command is associated with a dedicated memory 22, which serves as a register.<sup>20</sup> Thus, when the

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<sup>16</sup> Specification at page 5, lines 26-36

<sup>17</sup> Figure 2; Specification at page 8, line 27 to page 9, line 5

<sup>18</sup> See Figure 1

<sup>19</sup> Figure 1; Specification at page 6, lines 15-21

<sup>20</sup> Specification at page 6, lines 24-25

telephone 1 receives a reply to the user message, or the telephone 18, i.e. the called party, receives the user message, the user message or the reply is stored automatically in dedicated memory 22.<sup>21</sup> The microprocessor 7 places the user message, i.e. a caller's PIN number, into a spare field of a signaling message, prior to transmission of the signaling message.<sup>22</sup> The signaling message is a special message, i.e. a control message, and is transmitted from the telephone 1 to the device 13, or from telephone 1 to telephone 18.<sup>23</sup> Again, it is important for purposes of the present invention that a call is deemed to be fully set-up when the called party accepts the call, i.e. when the called party answers.<sup>24</sup> Thus, the requirement of claim 8 that the processor send the user message during the call set-up procedure means that the called party *does not answer*, but nevertheless receives the user message via the transmitted signaling message.<sup>25</sup>

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<sup>21</sup> Specification at page 6, lines 25-33

<sup>22</sup> Figure 1; Specification at page 5, lines 5-7

<sup>23</sup> Figure 1; Specification at page 5, lines 7-13

<sup>24</sup> Specification at page 5, line 37 to page 6, line 2

<sup>25</sup> Specification at page 6, lines 2-4

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The issues on appeal are as follows:

1. Whether claims 1-2, 4-5, 7-8, 10-11, 13-14, and 16 are improperly finally rejected under 35 U.S.C. § 102(e) as being anticipated by Willhoff.
2. Whether claims 3, 6, 9, 12, and 15 are improperly finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Willhoff.
3. Whether claims 1, 2, 8, and 10-11 are improperly finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Lahtinen in view of Perinpanathan.
4. Whether claims 3-7, 9, and 12-16 are improperly finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Lahtinen in view of Perinpanathan in further view of Willhoff.

## **VII. ARGUMENTS**

Appellant respectfully submits that the present invention according to claims 1-16 is not anticipated by and is not obvious over the cited art of record. Claims 1-16 stand or fall together.

### **1. Claim rejections – 35 U.S.C. § 102(e) – Willhoff**

The Examiner rejected claims 1-2, 4-5, 7-8, 10-11, 13-14, and 16 under 35 U.S.C. § 102(e) as allegedly being anticipated by Willhoff. To be an “anticipation” rejection under 35 U.S.C. § 102, the reference must teach every element and limitation of Appellant’s claims. Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. As a result, in order for the Examiner to maintain a rejection under 35 U.S.C. § 102, the references must disclose all of the limitations of the claims.

Appellant respectfully submits that Willhoff fails to disclose all of the claim limitations as set forth in the present invention. Appellant turns to independent claim 1 as being the broadest of this group of claims, and as being representative.

Independent claim 1 requires:

terminating the setting up of the call  
channel once the user message has been  
communicated

In making this rejection, the Examiner asserts that Willhoff meets this requirement by virtue of the teachings provided at col. 7, lines 30-33.

At col. 7, lines 30-33, Willhoff is discussing Block E (it says “D” but that block is described already at lines 11-17) of Fig. 4. That is to say, what Willhoff is mentioning here is a call take down procedure, which is different from terminating a call set up procedure.

In Willhoff, the call set up is performed at Block B of Fig. 3 and Block A of Fig. 4. The traffic channel is assigned at Block C. The Willhoff sending of the message(s) occurs after the channel is set up and assigned.

In Willhoff, an Origination message is sent to set up the call. This message instructs the Base Station/Mobile Switching Center/Interworking Function (BMI) that a short message service (SMS) transmission is forthcoming and that neither the vocoder or data modem should be used. After sending this Origination message, the mobile station proceeds as with any other call. The mobile station requests the assignment of a digital traffic channel. The mobile station then waits for the BMI to assign the digital traffic channel. Once the digital traffic channel is assigned, the mobile station switches to the assigned digital traffic channel. At this point, the call is set up and transmission may commence.<sup>26</sup> *Only after a channel is assigned and switched to does the mobile station transmit the SMS message.* Thus, Willhoff requires the call to be set up before the SMS message is transmitted.

In contrast, claim 1 includes the step of “terminating the setting up of the call channel once the user message has been communicated.” It is the *setting up* of the call channel that is terminated. The call channel itself is not used to transmit the user message.

In other words, Willhoff merely teaches what is already known in the art prior to Appellant's invention. Prior to Appellant's invention, a short message was transmitted by 1) establishing a communication link (or setting up a call) between the caller and a called party; 2) once the communication link has been established, transmitting the short message through the

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<sup>26</sup> See Willhoff at col. 6, lines 49-56

link; and 3) once the short message is sent, terminating the communications link (or clearing down the call). This process is the process performed in Willhoff.<sup>27</sup>

By contrast, the present invention seeks to send the SMS message during step 1. To establish a communication link, first a request is sent during a signaling phase in order to request that a communications channel be assigned. As part of this signaling phase (i.e. as part of the initial request), the SMS message is sent.

Appellant submits that in order for Willhoff to successfully anticipate the present invention, Willhoff would need to show something similar to the transmission of the SMS message *within* the Origination message or some other signaling message. This is not disclosed by Willhoff. As such, claim 1 is patentably distinguished over Willhoff and the final rejection of claim 1 under 35 U.S.C. § 102 as being anticipated by Willhoff is legally improper.

Furthermore, independent claim 1 requires:

placing a user message in a spare field of a  
signaling message for setting up the call  
channel

The Examiner asserts that this claim limitation is met by the teachings in the abstract and at col. 5, lines 55-65 of Willhoff. However, the cited portions of Willhoff disclose only that a teleservice origination request is transmitted from the mobile station to the network using a reverse digital traffic channel. This request specifies that a digital traffic channel be assigned to the mobile station. Only after this channel is assigned is the SMS message sent.<sup>28</sup> At col. 5, lines 55-65, Willhoff discloses fields of an Origination message that are referred to as Voice Mode and Data Mode. These fields are used to instruct the BMI that neither the vocoder nor

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<sup>27</sup> See Willhoff at col. 6, line 24 to col. 7, lines 34

<sup>28</sup> Willhoff at Abstract

data modem are required to receive the mobile station's transmission.<sup>22</sup> Thus, while Willhoff discloses using fields of an Origination message, Willhoff does not disclose placing a user message in a spare field of a signaling message, as required by independent claim 1. Therefore, claim 1 is patentably distinguished over Willhoff and the final rejection of claim 1 under 35 U.S.C. § 102 as being anticipated by Willhoff is legally improper for this additional reason.

**2. Claim rejections – 35 U.S.C. § 103(a) – Willhoff**

The Examiner rejected claims 3, 6, 9, 12, and 15 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Willhoff.

Claims 3 and 6 depend from independent claim 1, ultimately, and claim 9 depends from claim 8. Similarly, claims 12 and 15 depend from independent claim 10, ultimately. Appellant has already demonstrated that the teachings of Willhoff do not suggest the subject matter of independent claims 1, 8, or 10. Indeed, Willhoff's teachings are in an opposite direction: Willhoff is concerned with making longer and longer messages possible whereas Appellant's invention is drawn to mini-messages with an eye toward reducing network burdens. (*see* specification, page 1, line 29 to page 2, line 10). The artisan of ordinary skill, confronted with the teachings of Willhoff, would not have (and could not have) adapted Willhoff's teachings in any manner to produce the subject matter of independent claims 1, 8 or 10, much less that of dependent claims 3, 6, 9, 12 or 15. Therefore, claims 3, 6, 9, 12, and 15 are patentable over Willhoff, and the final rejection under 35 U.S.C. § 103(a) as being unpatentable over Willhoff is legally improper.

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<sup>22</sup> Willhoff at col. 6, lines 11-14



**3. Claim rejections – 35 U.S.C. § 103(a) – Lahtinen in view of Perinpanathan**

The Examiner rejected claims 1, 2, 8, and 10-11 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lahtinen in view of Perinpanathan.

As an initial matter, Appellant respectfully submits that there is no motivation or suggestion to combine the Lahtinen and Perinpanathan references. Obviousness may only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one having ordinary skill in the art. “The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.” *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000).

The Examiner asserts that one of ordinary skill would have been motivated to combine the teachings of Lahtinen and Perinpanathan “in order to provide a system to connect a user to a home address or foreign host to receive messages.”<sup>30</sup> However, Appellant respectfully disagrees with the Examiner’s statement of motivation.

Perinpanathan is concerned with providing the addressing necessary to provide call redirection to various user’s of a mobile communication system. In switch-based telephone networks, it is common to offer call redirection services such as call forwarding and call distribution.<sup>31</sup> However, in packet-based networks, this feature is not present. Routing of packets takes place at the router level, and requires modification of the home network router’s,

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<sup>30</sup> Final Office Action at page 6

the foreign network router's and the mobile host's IP stack. The routers are not accessible to the end user. Therefore, packet-based systems provide little end-user control over how the calls are redirected. In other words, an end user cannot easily direct the system to perform an equivalent of call forwarding.

Perinpanathan addresses these problems and offers to users of multimedia communication call redirection features similar to those which are available to normal telephone subscribers. Perinpanathan thus desires to make newer, mobile, multimedia communication, more like traditional methods of telephone communication.

In contrast, Lahtinen is concerned with exploiting the division between digital signal channels and audio communication channels. Lahtinen uses the simultaneous availability of digital channels and audio channels to communicate information over the digital channel while the audio channel is being used. In other words, Lahtinen seeks to exploit the newest features of mobile communications systems in order to move beyond the limitations of traditional communication systems. Thus, one skilled in the art would not look to Perinpanathan to solve the problems present in Lahtinen, and vice versa.

Even if the Lahtinen and Perinpanathan reference may be combined, Appellant respectfully submits that Lahtinen and Perinpanathan fail teach all of the claim limitations as set forth in the present invention. Appellant turns to independent claim 1 as being the broadest of this group of claims, and as being representative. Independent claim 1 recites the requirement for:

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<sup>31</sup> Perinpanathan at col. 1, lines 10-15

terminating the setting up of the call  
channel once the user message has been  
communicated

In making this rejection, the Examiner asserts that Perinpanathan meets this requirement by its teachings at col. 2, lines 15-67.

Perinpanathan shows the call signaling necessary to effect a redirection of a call to a c/o address. In other words, Perinpanathan is concerned with proper addressing of a call. A host sends an initial call setup request. A call redirector application sends a reply back indicating a c/o address. The call host then sends a call setup request to a foreign host at the c/o address, and the foreign host sends a call setup reply, thereby establishing a link (i.e. a traffic channel) between the host and the foreign host. Each request and reply contains only the addressing information necessary to establish a link between the calling host and the foreign host. No user messages are sent; rather all communication at this point involves the addressing necessary to set up a call channel. While Perinpanathan does show terminating the setting up of a call channel, it does not show terminating the setting up of a call channel "once the user message has been communicated." In Perinpanathan, no user messages are communicated.

As acknowledged by the Examiner, Lahtinen also does not teach the limitation of "terminating the setting up of the call channel once a reply to the user message has been received" as required in independent claim 1.

Lastly, as noted in the prior section, Willhoff also fails to teach the limitation of "terminating the setting up of the call channel once a reply to the user message has been received" as presented in claim 1.

Furthermore, independent claim 1 requires:

placing a user message in a spare field of a  
signaling message for setting up the call  
channel

The Examiner asserts that this claim limitation is met in the abstract of and Fig. 3 of Lahtinen. At the abstract, Lahtinen shows that useful information is pre-stored in a specified memory area from which the automatic answer transmission is automatically fetched. Then, conventional short message service is used to automatically transmit the useful information. This description of Lahtinen does not show that a user message is placed in a spare field of a signaling message, as required by the claim.

At Fig. 3 and its description at col. 4, lines 30-50, Lahtinen merely make use of conventional short message service technology to enable communication between terminal units. Useful information (e.g. a user's v-card) is stored in memory of the terminal unit or on a centralized server, and when a call is received by the terminal unit, this information is automatically sent via a conventional short message. However, Lahtinen, at these lines, does not show that the useful information is placed into a spare field of a signaling message, as required by the claim.

Perinpanathan also does not teach or suggest the required claim limitation. While Perinpanathan does show a call setup request from a calling host,<sup>32</sup> Perinpanathan does not show placing a user message in a spare field of a signaling message for setting up a call. Regarding Fig. 7 of Perinpanathan, the description of the figure at col. 12, line 63 to col. 13, line 3 teaches that the Caller Host (CH) initiates a call set-up request 144 directly to the callee's c/o address; the setup signaling steps required to establish a multimedia call are completed; and *after this*, the

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<sup>32</sup> See e.g. Fig. 7

conventional additional steps of negotiation and medial channel establishment are performed *eventually leading to* a media stream connection such as a voice communication between the CH 70 and the mobile host (MH) 124. Moreover, the call set-up request is sent using standard IP routing mechanisms. Therefore, while Perinpanathan shows, generally, a call set-up request and negotiation, Perinpanathan does not teach or suggest placing a message in a spare field of a signaling message for setting up the call, as required by the claim limitation.

Lastly, as noted in the prior section, Willhoff also fails to teach the limitation of placing a message in a spare field of a signaling message for setting up the call, as required by the claim limitation.

None of the three applied references teaches or suggests either of the claim limitation requirements discussed above. Even taken together, for what they would have meant as a whole to the person of ordinary skill, Appellant finds in the combined teachings no suggestion that could reasonably be interpreted as teaching the above-identified requirements of independent claim 1. The person of ordinary skill would not have (and indeed could not have) combined Lahtinen, Perinpanathan, and Willhoff in the manner suggested by the Examiner to achieve the subject matter of independent claim 1. Further, untaught modifications would have been necessary. Therefore, independent claim 1 is patentable over the prior art alone or in combination thereof and the final rejection of independent claim 1 over the prior art is improper.

***4. Claim rejections – 35 U.S.C. § 103(a) – Lahtinen/Perinpanathan in view of Willhoff***

The Examiner rejected claims 4-7, 9, and 13-16 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lahtinen in view of Perinpanathan in further view of Willhoff.

Claims 4-7 each depend ultimately from independent claim 1. Claim 9 depends from independent claim 8. Claims 13-16 depend from independent claim 10. Independent claims 1, 8, and 10 have been shown above to be patentable over the Lahtinen and Perinpanathan combination. Also, as discussed above, Willhoff does not cure the deficiencies of the Lahtinen and Perinpanathan combination. Therefore, for the reasons discussed above, claims 4-7, 9, and 13-16 are patentable over the Lahtinen, Perinpanathan, and Willhoff combination, and the final rejection is improper.

In summary, Appellant respectfully submits that Willhof, Lahtinen, and Perinpanathan, either alone or in combination, fail to disclose, teach or suggest the claimed invention. Therefore, Appellant submits that claims 1-16 are patentable over all of the cited references of record, and that the final rejections of claims 1-16 are improper.


**VII. CONCLUSION**

Appellant respectfully requests the members of the Board to reverse the rejection of all appealed claims and to find each of the claims allowable as defining subject matter which is not anticipated under 35 U.S.C. § 102(e) over Willhoff, or unpatentable under 35 U.S.C. § 103(a) over Willhoff, Lahtinen, and/or Perninpanathan.

Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37(a) and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: March 22, 2006

**CLAIMS APPENDIX**

CLAIMS 1-16 ON APPEAL:

1. A method, of sending a user message through a transmission network, comprising :  
activating a request to set up a call channel;  
placing a user message in a spare field of a signaling message for setting up the call channel;  
and then  
performing a signaling stage comprising sending said signaling message; and  
terminating the setting up of the call channel once the user message has been communicated.
2. A method according to claim 1, wherein the user message is stored in a dedicated memory of the receiver of the user message.
3. A method according to claim 2, wherein a user is authorized to access the dedicated memory by means of specific commands.
4. A method according to claim 1, wherein:  
the dedicated memory is in a mobile telephone used as a modem, and  
the transmission network is a mobile telephone network.
5. A method according to claim 1, wherein the dedicated memory is in an ISDN-type modem and an ISDN is used as the transmission network.



6. A method according to claim 1, wherein the size of the user message is limited to 35 eight-bit bytes at maximum.
7. A method according to claim 1, wherein the user message is communicated in an enciphered form.
8. A transceiver device, intended for use in transmitting a user message to a called party and for receiving a reply to the user message from the called party, said device comprising:
  - a dedicated memory;
  - one or more of the user message and the reply to the user message stored in the dedicated memory; and
  - a processor adapted to form a signaling message so as to include the user message in a spare field;wherein the processor is adapted also to send the signaling message during a call set-up operation of a signaling stage.
9. A device according to claim 8, wherein the capacity of the dedicated memory is no more than 35 bytes.
10. A method, of sending a user message through a transmission network, comprising:
  - activating a request to set up a call channel;
  - placing a user message in a spare field of a signaling message for setting up the call channel;
  - and then
  - performing a signaling stage comprising sending said signaling message; and

terminating the setting up of the call channel once a reply to the user message has been received.

11. A method according to claim 10, wherein the reply to the user message is stored in a dedicated memory of the receiver of the user message.

12. A method according to claim 11, wherein a user is authorized to access the dedicated memory by means of specific commands.

13. A method according to claim 10, wherein:  
the dedicated memory is in a mobile telephone used as a modem, and  
the transmission network is a mobile telephone network.

14. A method according to claim 10, wherein the dedicated memory is in an ISDN-type modem and an ISDN is used as the transmission network.

15. A method according to claim 10, wherein the size of the user message is limited to 35 eight-bit bytes at maximum.

16. A method according to claim 10, wherein the user message is communicated in an enciphered form.

**EVIDENCE APPENDIX**

Pursuant to 37 C.F.R. § 41.37(c)(1)(ix), there is no evidence submitted pursuant to 37 C.F.R. § 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner and relied upon by Appellant in the appeal.

**RELATED PROCEEDINGS APPENDIX**

There are no decisions rendered by a court of the Board in any proceeding identified about  
in Section II pursuant to 37 C.F.R. § 41.37(c)(1)(ii).